

**CONDENSED**

Page 111

1  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X  
5 ADONNA FROMETA,

6 PLAINTIFF,

7  
8 -against- Index Case No:  
9  
10 07CIV6372

11 MARIO E. DIAZ-DIAZ, ALL AMERICAN HAULERS  
12 RECYCLING,

13 DEFENDANTS.

14 -----X  
15  
16 DATE: January 11, 2007  
17 TIME: 5:10 P.M.

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CONTINUED EXAMINATION BEFORE TRIAL of  
the Defendant, MARIO E. DIAZ-DIAZ, taken by the  
Plaintiff, pursuant to an Order, held at the  
office of Wilson, Elser, Moskowitz, Edelman &  
Dicker LLP, 150 East 42nd Street, 23rd Floor  
New York, New York 10017 before Lorraine  
DeSalvio, a Shorthand Reporter and Notary  
Public of the State of New York.

## 1 APPEARANCES:

2 SLAWEK W. PLATTA, LLM  
 3 Attorney for Plaintiff  
 4 42 Broadway  
 5 Suite 1927  
 6 New York, New York 10004  
 7 BY: SLAWEK W. PLATTA, ESQ.

8  
 9 WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER, LLP  
 10 Attorneys for the Defendants  
 11 150 East 42nd Street  
 12 New York, New York 10017  
 13 BY: JOHN A. HSU, ESQ.

14 ALSO PRESENT  
 15 ABLE DOCE-SPANISH INTERPRETER

16 \* \* \*

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1 MARIO E. DIAZ-DIAZ, called as a  
 2 witness, having been first duly sworn by a  
 3 Notary Public of the State of New York, was  
 4 examined and testified (through the Spanish  
 5 interpreter) as follows:

## 6 EXAMINATION BY

## 7 MR. PLATTA:

8 Q. Please state your name for the  
 9 record.

10 A. Mario E. Diaz-Diaz.

11 Q. Where do you reside?

12 A. 91 Sprint Street, Apartment 1,  
 13 Passey, New Jersey 07055.

14 MR. HSU: This is a continuation  
 15 from of the deposition of Mario  
 16 Diaz-Diaz as from December 4, 2007.

17 MR. PLATTA: And let the record  
 18 reflect that this deposition was  
 19 supposed to start at 4:00, it is now  
 20 5:10 and this is due to the defendant.  
 21 Plaintiff's counsel and the translator  
 22 and ma'am court reporter were present  
 23 all the time as well as defense counsel.

24 Q. Mr. Diaz-Diaz, good afternoon. How

## 2 FEDERAL STIPULATIONS

3  
 4 IT IS HEREBY STIPULATED AND AGREED  
 5 By and between the counsel for the respective  
 6 parties hereto, that the filing, sealing, and  
 7 certification of the within deposition shall  
 8 be and the same are hereby waived;

9  
 10 IT IS FURTHER STIPULATED AND AGREED  
 11 That all objections, except as to the form  
 12 Of the question, shall be reserved to the times  
 13 Of the trial.

14  
 15 IT IS FURTHER STIPULATED AND AGREED  
 16 That the within deposition may be signed before  
 17 Any Notary Public with the same force and  
 18 effect

19 As if signed and sworn to before this court.

20  
 21 \* \* \* \*  
 22  
 23  
 24  
 25

## 1 M. DIAZ-DIAZ

2 are you today?

3 A. A little tired.

4 Q. I will repeat what I said during  
 5 the very beginning of the first deposition.  
 6 I'll be asking you some questions about the  
 7 accident that happened on February 14, 2007 and  
 8 I'll ask you to keep your responses verbal, and  
 9 please remember also that nods of your head  
 10 will not be recorded by the court reporter.

11 A. Okay.

12 Q. And if you don't understand a  
 13 question I ask you, tell me and I'll rephrase  
 14 the question.

15 A. Okay, very well.

16 Q. If you need to take a break, you  
 17 may do so, however, I ask that you respond to  
 18 the question first.

19 A. Okay.

20 Q. And also, if I don't hear you  
 21 saying you don't understand something, my  
 22 understanding is that you understood the  
 23 question and responded truthfully and  
 24 adequately to every question asked.

25 A. Yes.

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 19 reflect that this deposition was  
 20 supposed to start at 4:00, it is now  
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Page 115

1 M. DIAZ-DIAZ

2 are you today?

3 A. A little tired.

4 Q. I will repeat what I said during  
 5 the very beginning of the first deposition.  
 6 I'll be asking you some questions about the  
 7 accident that happened on February 14, 2007 and  
 8 I'll ask you to keep your responses verbal, and  
 9 please remember also that nods of your head  
 10 will not be recorded by the court reporter.

11 A. Okay.

12 Q. And if you don't understand a  
 13 question I ask you, tell me and I'll rephrase  
 14 the question.

15 A. Okay, very well.

16 Q. If you need to take a break, you  
 17 may do so, however, I ask that you respond to  
 18 the question first.

19 A. Okay.

20 Q. And also, if I don't hear you  
 21 saying you don't understand something, my  
 22 understanding is that you understood the  
 23 question and responded truthfully and  
 24 adequately to every question asked.

25 A. Yes.

2 (Pages 112 to 115)

Page 116

1 M. DIAZ-DIAZ

2 Q. Sir, previously we had marked  
 3 Plaintiff's Exhibit 1, a police accident  
 4 report. I'll ask that you have a look at that  
 5 with permission of your counsel. When you are  
 6 done looking at it, let us know.

7 MR. HSU: Don't say anything, just  
 8 look at it and when you are done, tell  
 9 us that you are done, okay.

10 A. Sir, did you ever see this document  
 11 before that was marked as Plaintiff's.  
 12 Exhibit 1?

13 A. This document?

14 Q. Yes.

15 MR. HSU: Yes or no.

16 A. This is a report from the police.

17 Q. That's correct. Have you seen this  
 18 document before?

19 A. Yes, I've seen it.

20 Q. When did you see it?

21 A. The company who did the service  
 22 asked me to go get it.

23 Q. What is the company that you just  
 24 referred to?

25 A. All American Haulers.

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Page 118

1 M. DIAZ-DIAZ

2 MR. PLATTA: Counsel, if you have  
 3 objection, state it.

4 MR. HSU: I'm going to object  
 5 because the question doesn't make sense.

6 A. No, I didn't see him. No, I didn't

7 see it.

8 Q. Did you draw any kind of diagram  
 9 for the police officer at the scene of the  
 10 accident?

11 A. No, sir.

12 Q. What was the sum and substance of  
 13 the conversation, if any, that you had with the  
 14 police officer at the scene of the accident?

15 A. I didn't speak with the police  
 16 officer.

17 Q. Who did you speak to at the scene  
 18 of the accident besides my client that you  
 19 already testified to?

20 A. There was a lady, as I said before,  
 21 in the ambulance there was a lady in the  
 22 ambulance that spoke Spanish.

23 Q. What was the sum and substance of  
 24 the conversation that you had with her?

25 A. She came over to me because I was

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Page 119

1 M. DIAZ-DIAZ

2 Q. Did you see this police report at  
 3 their office?

4 MR. HSU: Objection. He just said  
 5 they asked him to go get a copy of the  
 6 police report from the police station  
 7 so.

8 Q. Sir, when was the first time that  
 9 you saw this police report?

10 A. One or two weeks afterwards.

11 Q. At what location was it?

12 A. I don't recall right now, I don't  
 13 recall exactly right now, but I know where it  
 14 is.

15 Q. Was it at the police precinct?

16 A. Yes.

17 Q. Did you see the police officer who  
 18 was preparing this police report?

19 MR. HSU: At the time that he  
 20 picked up the report?

21 MR. PLATTA: No. At the time that  
 22 the report was prepared.

23 MR. HSU: You are assuming it was  
 24 prepared in his presence.

25 Q. Did you see him prepare it?

1 M. DIAZ-DIAZ

2 at my truck and the police officer told me to  
 3 go up to the truck. She was smoking, she was  
 4 smoking and I asked, how is the lady I asked,  
 5 and she told me that she is fine.

6 Q. Did you speak to anyone else?

7 A. No, sir.

8 Q. How long did you stay at the scene  
 9 of the accident afterwards?

10 A. How long?

11 Q. Yes.

12 A. It was a little bit more than an  
 13 hour until the police officer told me that I  
 14 could go, I didn't leave.

15 Q. Okay, how did you leave the scene  
 16 of the accident?

17 A. In my truck.

18 Q. Did you continue on your route to  
 19 work that night or something else?

20 A. I continued in my job, in my work.

21 Q. How long did you work that night?

22 A. Well, that the hour until 12:00 in  
 23 the afternoon.

24 Q. When was the first time that you  
 25 reported this accident to your office?

Page 120

1 M. DIAZ-DIAZ  
 2 A. It was something around 9:00 in the  
 3 morning that the offices were open already.  
 4 Q. And that was the first time that  
 5 you had reported the accident to your  
 6 superiors?  
 7 A. Yes.  
 8 Q. Do you remember what you told them?  
 9 A. Yes, I told them that I had an  
 10 accident.  
 11 Q. Anything else?  
 12 A. I only told them that I had an  
 13 accident and nothing else.  
 14 Q. What was the name of the person  
 15 that you spoke with?  
 16 A. There was a lady there who spoke  
 17 Spanish her name was Denarius and I spoke to  
 18 her in order for her to communicate with the  
 19 other people.  
 20 Q. Do you know who are the other  
 21 people at the company?  
 22 A. I don't know them personally, I  
 23 just know that there is a person called Tony  
 24 and that I have to speak to him about the  
 25 accident.

Page 122

1 M. DIAZ-DIAZ  
 2 MR. HSU: Note my objection to  
 3 form.  
 4 A. Repeat the question.  
 5 MR. PLATTA: Read it back.  
 6 [Whereupon, the requested portion  
 7 of the record was read back by the Court  
 8 Reporter.]  
 9 A. Yes, they instruct us that when we  
 10 have an accident only to call, that's it.  
 11 Q. Do you know the number to call?  
 12 A. No, no, I had a radio.  
 13 Q. Is it like a CB radio?  
 14 A. Yes.  
 15 Q. Did you call to report this  
 16 accident using the CB radio at night?  
 17 A. No. At 9:00 in the morning I  
 18 called.  
 19 Q. Did you report this accident to  
 20 anyone between the time when it happened more  
 21 or less at 4:30 a.m. and 9:00 a.m.?  
 22 MR. HSU: Besides the police that  
 23 took a report?  
 24 MR. PLATTA: He didn't take a  
 25 report.

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1 M. DIAZ-DIAZ  
 2 Q. Did you speak to Tony as well?  
 3 A. No.  
 4 Q. Was Denarius a translator?  
 5 MR. HSU: Objection to that  
 6 question. He didn't say that. She  
 7 worked in his employment and she just  
 8 helped translate for him.  
 9 MR. PLATTA: Right, I'm asking if  
 10 she was a translator.  
 11 MR. HSU: Like a professional  
 12 translator. Ask her what she did there.  
 13 MR. PLATTA: Off the record.  
 14 [Discussion held off the record.]  
 15 MR. PLATTA: Back on the record.  
 16 A. Denarius speaks Spanish.  
 17 Q. Is she a professional translator at  
 18 your office?  
 19 A. She is simply an employee that  
 20 worked there and speaks Spanish, and I told her  
 21 that I had an accident, she communicated to the  
 22 people in the office.  
 23 Q. Is there any kind of procedure that  
 24 you have to follow when an accident happens and  
 25 it involves your truck at your company?

Page 123

1 M. DIAZ-DIAZ  
 2 MR. HSU: It didn't mean they  
 3 didn't report it, you didn't ask if he  
 4 it provided them.  
 5 MR. PLATTA: I'm asking about  
 6 anyone including the police.  
 7 A. What?  
 8 Q. Did you report that you had an  
 9 accident to anyone between 4:30 a.m. and 9:00  
 10 a.m.?  
 11 A. Only the person who I said.  
 12 Q. Who is that?  
 13 A. As I said before, I called Denarius  
 14 in order for her to tell the other people and  
 15 in order for her to tell the owners or officers  
 16 of the company.  
 17 Q. I understand. That was at 9:00,  
 18 correct?  
 19 A. It's around there because the  
 20 offices don't open exactly at this time that  
 21 you report to work.  
 22 Q. My question is: Did you speak to  
 23 anyone else between 4:30 a.m. and 9:00 a.m.  
 24 besides this person?  
 25 A. No, no.

4 (Pages 120 to 123)

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Page 126

## 1 M. DIAZ-DIAZ

2 Q. Did you call your wife?

3 A. No. I told her when I arrived.

4 Q. What did you tell her?

5 A. I told her that I had an accident  
6 and I explained more or less, I told her that I  
7 had an accident.

8 Q. What time did you tell her that?

9 A. I don't remember, I don't recall.

10 Q. Was it in the morning or afternoon?

11 A. I don't recall exactly because at  
12 that time she was working in the morning.13 Q. Sir, did you use your CB radio at  
14 any time between the moment when you got into  
15 your truck on February 14th and the moment of  
16 the accident?

17 A. No, no, I didn't use it, no.

18 Q. Was it on during that time?

19 A. Are you asking me if it was turned  
20 on?

21 Q. Yes.

22 A. Yes, yes, when someone gets in you  
23 turn it on.24 Q. Were you able to hear other drivers  
25 speaking on the radio?

## 1 M. DIAZ-DIAZ

2 A. No.

3 MR. HSU: I'm objecting to the form  
4 because it assumes that there were other  
5 drivers. Was anyone speaking on the  
6 radio while you were driving your car?7 Q. Was there anyone else speaking on  
8 the radio at the time that you got to the truck  
9 and the moment of the accident?10 A. No, at the time in the wee hours of  
11 the morning there are only two trucks that go  
12 into work, the other trucks are not working at  
13 that time.14 Q. What is the procedure for using the  
15 CB radio in other words, when did you use it?16 A. It's only used when we go to the  
17 clients and then they call the company and the  
18 company calls us to let us know if there was  
19 any service that we didn't provide or if there  
20 was an anything left behind or if there was a  
21 stop that we didn't make.22 Q. Did you have a regular radio inside  
23 the truck at the time of the accident?

24 A. Yes.

25 Q. Was it on?

## 1 M. DIAZ-DIAZ

2 MR. HSU: At what point?

3 MR. PLATTA: At any time before the  
4 accident.5 A. Yes. From the moment that you  
6 enter the office you removed it from the  
7 charger and you put it into the truck and you  
8 turn it on.

9 Q. Are you referring to the CB radio?

10 A. What is a CB?

11 Q. How did you call the radio where  
12 you contact the base?

13 A. Walkie-talkie.

14 Q. Were you referring to the  
15 walkie-talkie?16 A. It's like a regular radio like  
17 those phones that sound.18 Q. My question is, did you have a  
19 radio with music stations in your truck at the  
20 time of the accident?21 A. No, no. That truck did not have a  
22 radio.23 Q. During the last deposition we spoke  
24 a little bit about snow tires and snow chains;  
25 can you tell me if you remember if your car had

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Page 127

## 1 M. DIAZ-DIAZ

## 2 M. DIAZ-DIAZ

3 snow tires at the time of the accident?

4 MR. HSU: Objection. This was  
5 already asked and answered. You asked,  
6 "Do you know when the last time that the  
7 tires on your truck were changed and  
8 answer was: "No, I don't remember".  
9 Than you asked, "Can you tell me on the  
10 day of the accident, did you check the  
11 depth of the treads of the tires on your  
12 truck before you starting driving on the  
13 night of the accident, February 14th"?14 MR. PLATTA: Counselor, I know what  
15 I said. I'm asking about snow tires we  
16 didn't even talk about it.17 MR. HSU: Read back the last  
18 question.19 [Whereupon, the requested portion  
20 of the record was read back by the Court  
21 Reporter.]

22 A. Of the last time I told you, no.

23 Q. No, you didn't have?

24 A. It did not have chains.

25 Q. I'm asking you about snow tires?

MR. HSU: Do you know if the truck

<p>1 M. DIAZ-DIAZ  2 had snow tires on it at the time of the  3 accident?  4 THE WITNESS: No, no.  5 Q. No, it didn't have or no, you don't  6 know if it had?  7 A. It did not have them.  8 Q. Was it a procedure at your company  9 at the time of the accident describing when you  10 had to put snow tires on the truck?  11 A. I don't put tires on.  12 Q. I understand that you don't. My  13 question is, do you know if there was a  14 procedure saying exactly when you do have to  15 put snow tires on the truck, not just for you  16 but for anyone?  17 MR. HSU: If anyone.  18 A. I don't know if they had that  19 procedure.  20 Q. Same question about snow chains.  21 Do you know if there were a procedure that has  22 to be followed as to when you are obligated to  23 drive your truck with snow chains on it?  24 MR. HSU: Note my objection to  25 form.</p>	<p>Page 128</p> <p>1 M. DIAZ-DIAZ  2 oil in the truck and as you are driving along  3 you check the brakes on the truck to see if the  4 brakes are working after you take off from the  5 shop.  6 Q. My question is: What did you do  7 that night to check the brakes?  8 MR. HSU: Asked and answered, don't  9 answer.  10 MR. PLATTA: Off the record.  11 [Discussion held off the record.]  12 MR. PLATTA: Back on the record.  13 Q. Again, what did you do that night  14 to check the brakes on your vehicle?  15 A. All the drivers before they turn on  16 their vehicles they check the fluids in the  17 car, they check the lights, they check the  18 tires. Again, another thing that we do is when  19 you get into the truck we have to check the  20 gauge to see if the air pressure on the brakes  21 goes up to 120 pounds, if it goes up to 120  22 pounds you know there is something wrong with  23 the brakes.  24 Q. That particular night, February 14,  25 2007, what did you do to check the truck, to</p>
<p>1 M. DIAZ-DIAZ  2 A. I don't know if they have that  3 procedure there.  4 Q. Did anyone at All American Haulers  5 ever tell you at certain times you had to put  6 snow chains on your truck?  7 MR. HSU: You are referring to  8 before the accident?  9 MR. PLATTA: At any time. At any  10 time before or after, yes.  11 A. No. They have never told me  12 anything.  13 Q. And sir, before you testified that  14 you checked the brakes in your truck, my  15 question is, how did you check that?  16 MR. HSU: Objection to the form, in  17 which are you characterizing his  18 testimony, it speaks for itself.  19 Q. Sir, did you check the brakes in  20 your truck on the night of the accident?  21 MR. HSU: Before the accident,  22 right?  23 MR. PLATTA: Yes.  24 A. As I said before, when you get into  25 the truck, you check the tires, you check the</p>	<p>Page 129</p> <p>1 M. DIAZ-DIAZ  2 check the brakes?  3 A. I came from New Jersey with the  4 brakes and they were working, I pumped them.  5 MR. HSU: Off the record.  6 [Discussion held off the record.]  7 MR. HSU: Back on the record.  8 Q. Sir, when you said that you pumped  9 the brakes, what was the reason for to you pump  10 the brakes?  11 A. When you pump the brakes when you  12 get up to 120 you pump the brakes in order to  13 get the pressure up. Sometimes it's at 90 so  14 you pump them to get them up to 120.  15 Q. Can you tell me when you did that  16 night?  17 A. Before I left. Before you leave  18 you have you to do it.  19 Q. At the time of the accident, can  20 you tell me what was your brake pressure?  21 MR. HSU: Note my objection to  22 form.  23 A. I couldn't tell you no, I could not  24 tell you.  25 Q. And when you pumped the brakes,</p>

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1 M. DIAZ-DIAZ

2 what was the air pressure?

3 A. I pumped the brakes in the yard.

4 Q. I understand. What was the brake  
5 pressure at the time?6 A. At that moment it was 120. Another  
7 method that you use is that you press the brake  
8 peddle for one minute.9 Q. Did you check the brake pressure at  
10 any time from the moment that you left the yard  
11 until the moment of the accident besides the  
12 moment that you just described?

13 A. That procedure is done in the yard.

14 Q. My question is; did you observe the  
15 pressure of your brakes at any time before the  
16 moment between the moment when you left the  
17 yard until the moment of the impact?18 MR. HSU: Note my objection. It  
19 assumes that he could see the pressure  
20 on some gauge while he is driving the  
21 vehicle.22 MR. PLATTA: I'll rephrase the  
23 question.24 Q. Sir, how do you observe the  
25 pressure of the brakes?

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1 M. DIAZ-DIAZ

2 Q. Now my question again; did you look  
3 at this equipment that shows the pressure of  
4 your brakes at any time from the moment when  
5 you left the yard until the moment of the  
6 accident?

7 A. Read back the question.

8 [Whereupon, the requested portion  
9 of the record was read back by the Court  
10 Reporter.]11 Q. As one has the opportunity, one  
12 looks at the dashboard because one depends on  
13 that, there is the oil pressure dial, there is  
14 brake pressure dial, there is also the  
15 equipment that shows you how fast the car is  
16 moving, it's all on the dashboard and you have  
17 to look at that?18 MR. PLATTA: Move to strike as  
19 nonresponsive.20 Q. What I'm interested in, did you  
21 physically look at the piece of equipment that  
22 shows the pressure of the brakes at any time  
23 between the time-out that you left the yard and  
24 the moment of the accident?

25 A. You always have to observe it.

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1 M. DIAZ-DIAZ

2 MR. HSU: I'm going to allow this  
3 one more time. It was asked and  
4 answered.5 MR. PLATTA: Counsel, let him  
6 answer it one more time.7 MR. HSU: That's it. You are going  
8 in circles.9 A. That procedure is done in the yard  
10 because if the brakes are bad then you can't  
11 leave.12 Q. My question is: Is there any type  
13 of equipment that shows you the pressure of the  
14 brakes inside of the vehicle that you can see  
15 while you are driving?

16 A. No verbal response.

17 MR. PLATTA: Repeat the question,  
18 read it back.19 [Whereupon, the requested portion  
20 of the record was read back by the Court  
21 Reporter.]22 A. Yes, there is a piece of equipment  
23 there, I don't remember the name, but it tells  
24 you what the pressure is of the brakes as you  
25 are driving the vehicle.

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1 M. DIAZ-DIAZ

2 Q. I don't understand, does that mean  
3 that you looked at it?

4 MR. HSU: Yes or no.

5 A. Clearly, I looked at it, yes.

6 Q. How many times?

7 A. I don't recall, I don't remember.

8 Q. More than 10?

9 MR. HSU: He just said he didn't  
10 recall.

11 MR. PLATTA: Can he estimate.

12 MR. HSU: Can you estimate how many  
13 times you might have looked at it, can  
14 you estimate, yes or no.

15 A. No, I can't estimate.

16 Q. When was the last time before the  
17 accident you looked at the pressure of your  
18 brakes?

19 A. I don't recall, I don't remember.

20 Q. Was it more than 10 minutes before  
21 the accident?

22 A. I don't recall exactly.

23 Q. More than 30 minutes?

24 MR. HSU: Asked and answered. He  
25 didn't recall.

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1 M. DIAZ-DIAZ  
 2 A. I don't know exactly.  
 3 Q. Sir, when was the last time that  
 4 your driver's license, Class A was renewed?  
 5 A. Renewed?  
 6 Q. Yes.  
 7 A. May I check it?  
 8 MR. PLATTA: Yes, with permission  
 9 of counsel.  
 10 MR. HSU: No. If you remember, all  
 11 from your memory.  
 12 A. One second, I believe it's renewed  
 13 until 2011.  
 14 Q. When was the last time it was  
 15 renewed before today?  
 16 A. Exactly, I don't recall, but in the  
 17 beginning of the year I had to renew it because  
 18 it was going to expire.  
 19 Q. In 2007 or 2008?  
 20 A. In 2007.  
 21 Q. Is it fair to say that you renewed  
 22 the driver's license before the accident  
 23 happened?  
 24 A. Yes.  
 25 MR. HSU: Objection to the form.

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1 M. DIAZ-DIAZ  
 2 but it was in the beginning of the year.  
 3 Q. Which year?  
 4 A. Last year, March or April.  
 5 Q. 2007 or 2006?  
 6 A. 2007.  
 7 Q. Prior to that?  
 8 MR. HSU: Objection, there was a  
 9 line of questioning regarding his  
 10 eyesight and eye examination already  
 11 okay.  
 12 MR. PLATTA: Yes.  
 13 MR. HSU: When was the first time  
 14 that you received a Jersey license prior  
 15 to the date your eye vision checked.  
 16 THE WITNESS: No, I didn't have any  
 17 problems. When you go to the Department  
 18 to Motor Vehicles first thing that you  
 19 have is a check.  
 20 MR. HSU: This was already asked  
 21 and answered. Are you asking him a new  
 22 question?  
 23 MR. PLATTA: Yes.  
 24 Q. When was the prior time prior to  
 25 2007 when you had to renew your Class A

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1 M. DIAZ-DIAZ  
 2 You can answer.  
 3 A. Before, I don't recall if it was  
 4 before or after. I don't recall, I don't  
 5 remember.  
 6 Q. Do you remember where you renewed  
 7 your driver's license?  
 8 A. The motor vehicle out there in  
 9 Lodi, New Jersey.  
 10 Q. At that time, did you have to  
 11 undergo any type of an eye test?  
 12 A. Not exactly because my medical card  
 13 were current, the one that I had on me.  
 14 Q. Was your vision checked at the time  
 15 when you had to renew your Class A driver's  
 16 license in 2007?  
 17 A. I don't recall if they checked my  
 18 eyesight, I believe it wasn't necessary.  
 19 Q. Do you remember when was the prior  
 20 time when had you to renew your driver's  
 21 license prior to 2007?  
 22 A. Yes, because I have to do my  
 23 fingerprints for hazardous material.  
 24 Q. So when was it?  
 25 A. I don't recall exactly when it was

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1 M. DIAZ-DIAZ  
 2 license?  
 3 MR. HSU: You asked about in '99  
 4 when you checked.  
 5 MR. PLATTA: I'm asking about the  
 6 Class A.  
 7 MR. HSU: That's not the testimony.  
 8 Q. Is Class A a driver's license, it  
 9 seems to say that.  
 10 MR. PLATTA: Off the record.  
 11 [Discussion held off the record.]  
 12 MR. PLATTA: Back on the record.  
 13 Q. When was the last time prior to  
 14 2007 that you had to renew your Class A  
 15 driver's license?  
 16 MR. HSU: Before you answer. Let  
 17 the record reflect we have not had an  
 18 opportunity, my client has not had an  
 19 opportunity to review his earlier  
 20 testimony. A transcript was provided to  
 21 me today, January 14, 2008 from the  
 22 December 4th deposition so this question  
 23 is asked and answered but we're going to  
 24 allow you to answer for this final time,  
 25 if you know the answer.

8 (Pages 136 to 139)

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1 M. DIAZ-DIAZ

2 Q. When was the last time that you  
3 renewed it?

4 A. It was March or April of last year.

5 Q. Last year, meaning 2006 or 2007?

6 MR. HSU: This is 2008 so last year  
7 would be 2007.

8 A. 2007.

9 Q. And my question was, prior to that  
10 time, when did you renew your driver's license,  
11 Class A?12 A. I have a procedure that I have to  
13 follow. I took out my driver's license in  
14 1999, in that procedure I am changing from D to  
15 A and you renew it every four years.16 Q. Again, when was the last time  
17 before 2007 that you renewed your driver's  
18 license, Class A?19 MR. HSU: He just answered. He got  
20 it in '99 and he answered it's every  
21 four years.22 Q. Did you renew the license in 2003  
23 four years after you got it in 1999 and again  
24 four years later in 2007?

25 A. I don't have the exact dates.

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1 M. DIAZ-DIAZ

2 yet, I think that was asked and answered  
3 already.4 MR. PLATTA: Read back the  
5 question.6 [Whereupon, the requested portion  
7 of the record was read back by the Court  
8 Reporter.]

9 Q. I want to know since when?

10 MR. HSU: This is scary. Explain  
11 to him that he already testified and  
12 then he will have the opportunity to  
13 read it. Come outside and read the  
14 testimony otherwise you give him the  
15 questions and his answers on the record,  
16 what he already testified to.17 MR. PLATTA: Let me ask you  
18 something else. Did you actually  
19 testify since when he had the  
20 restrictions on the driver's license?21 MR. HSU: He testified that he had  
22 the restrictions on the date of the  
23 accident and he got the license in 1999.24 Q. Sir, did you have restrictions on  
25 your driver's license in 1999 to wear glasses?

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1 M. DIAZ-DIAZ

2 Q. How many times did you all  
3 together renew your Class A driver's license?

4 A. I renewed it last year.

5 Q. And was it the only time when you  
6 renewed it?7 MR. HSU: How many times have you  
8 renewed Class A since you first got it  
9 in total?

10 THE WITNESS: One time.

11 Q. To operate the truck that you were  
12 operating on the date of the accident, did you  
13 have to have a Class A driver's license?

14 THE WITNESS: Yes.

15 Q. Sir, when you first got a  
16 prescription for your glasses, was this  
17 prescription only for reading?18 MR. HSU: Asked and answered. This  
19 has all been gone over. You are not  
20 attempting go back to this.

21 MR. PLATTA: Strike it.

22 Q. Sir, since when do you have the  
23 restrictions on your driver's license for  
24 wearing glasses?

25 MR. HSU: Objection. Don't answer

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1 M. DIAZ-DIAZ

2 A. They didn't give me a restriction.  
3 How do I tell you, I needed glasses to read and  
4 then with time I've had to go and fix them.5 MR. HSU: When was first time that  
6 you had a restriction put on your  
7 license that you had to wear glasses,  
8 when was the first time, the first year?  
9 His Answer was: That is when I did the  
10 road test.

11 Q. What year is that, approximately?

12 A. I can't recall, I don't remember.

13 MR. HSU: Before 2007?

14 THE WITNESS: Yes, it was before.

15 Q. Before this accident?

16 A. Yes, it was before.

17 Q. Can you tell me if this was in

18 2000?

19 A. I don't have eight years with that  
20 driver's license, I don't have eight years with  
21 a CDL Class A driver's license.22 Q. How many years do you have with a  
23 CDL?

24 MR. HSU: Hold on one second.

25 A. I don't recall now.

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1 M. DIAZ-DIAZ  
 2 Q. Sir, did you have a restriction on  
 3 your Class A driver's license in 2005?  
 4 MR. HSU: Note my objection.  
 5 A. Yes.  
 6 Q. What about in 2004?  
 7 A. I don't have an exact recollection  
 8 of when it was. As I said before, previously I  
 9 gave you the procedure of how it was that I  
 10 went about getting this license.  
 11 Q. I appreciate that. Do you have  
 12 anything at home that would indicate the year  
 13 or month when you started having restrictions  
 14 on your driver's license?  
 15 MR. HSU: Yes or no?  
 16 A. Yes, I believe that I have it yes,  
 17 I would have to look for it.  
 18 MR. PLATTA: I'll call for the  
 19 production of these records and put it  
 20 in writing.  
 21 MR. HSU: As far as I recollect,  
 22 the accident wasn't in 2000, it was 2007  
 23 and he said that he was wearing glasses  
 24 at that time.  
 25 Q. Sir, did you have in 2007 a valid

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1 M. DIAZ-DIAZ  
 2 at the same time have a restriction on your  
 3 Class A driver's license for wearing glasses  
 4 and you wouldn't have it on a Class D driver's  
 5 license?  
 6 A. Class D, no, no, there is no  
 7 reason.  
 8 Q. Okay.  
 9 MR. HSU: If you know.  
 10 A. May I say the reason?  
 11 Q. Yes, sure.  
 12 A. When I had the Class C, now I'm  
 13 remembering. I used to make deliveries for a  
 14 company and I had to read maps and I couldn't  
 15 read the letters on the map very well.  
 16 MR. HSU: He's not asking you for  
 17 your life story. Do you know why there  
 18 is a difference for different classes D  
 19 and A. Do you know why one has a  
 20 restriction or no, you do you know why  
 21 and if you do know, tell him why.  
 22 A. Yes, there is a difference. Class  
 23 D yes, because Class D is to drive regular  
 24 four-door cars and the Class A is to drive  
 25 trucks.

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1 M. DIAZ-DIAZ  
 2 driver's license Class B?  
 3 MR. HSU: I'm objecting. What is a  
 4 Class B driver's license?  
 5 A. I've never had a Class B, only  
 6 Class A, CDL.  
 7 MR. HSU: Are you withdrawing the  
 8 last question?  
 9 MR. PLATTA: I'm withdrawing the  
 10 last question.  
 11 Q. Did you have a restriction your  
 12 driver's license, Class D at the time of the  
 13 accident?  
 14 A. No, and on my Class D I didn't have  
 15 any restrictions.  
 16 Q. Is there any reason why at the same  
 17 time that you would have restrictions on your  
 18 Class A license and not have a restriction on  
 19 your Class D license?  
 20 MR. HSU: If you know.  
 21 A. Is there a reason?  
 22 Q. Yes.  
 23 A. If there a reason please tell me  
 24 the question again.  
 25 Q. Is there any reason that you would

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1 M. DIAZ-DIAZ  
 2 Q. When you were talking about Class  
 3 C, did you have a valid driver's license Class  
 4 C at the time of the accident in 2007?  
 5 A. Class A.  
 6 Q. Class C?  
 7 A. No, it wasn't valid.  
 8 Q. When did it expire?  
 9 MR. HSU: What does it matter? He  
 10 didn't need a Class C to drive. If it  
 11 was expired, it has no relevance in the  
 12 case at hand. That's like asking for a  
 13 pilot license. He didn't need to have  
 14 one at the time of the accident.  
 15 MR. PLATTA: His eye condition is  
 16 an issue here.  
 17 MR. HSU: You think it's an issue  
 18 but it's not an issue.  
 19 MR. PLATTA: I'll have to file a  
 20 motion.  
 21 MR. HSU: You will have to make a  
 22 motion. You can try to make it an issue  
 23 but it ain't an issue, trust me.  
 24 MR. PLATTA: Off the record.  
 25 [Discussion held off the record.]

10 (Pages 144 to 147)

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1 M. DIAZ-DIAZ  
 2 MR. PLATTA: Back on the record.  
 3 MR. HSU: Do you have a Class C  
 4 driver's license?  
 5 MR. PLATTA: On the date of the  
 6 accident.  
 7 A. In 2007?  
 8 MR. HSU: No. Ever, did you have a  
 9 Class C license?  
 10 THE WITNESS: I had a Class C.  
 11 MR. HSU: But it expired.  
 12 A. You can't have two licenses, you  
 13 can't have two passports, you can only have  
 14 one.  
 15 Q. Fine.  
 16 A. Only one, you can only have one,  
 17 when you changed from Class C to Class A they  
 18 disqualify it and they punch it.  
 19 Q. Did the Class C driver's license  
 20 have any restrictions?  
 21 A. No, it didn't have any  
 22 restrictions.  
 23 Q. Do you know when it expired?  
 24 MR. HSU: Note my objection. He  
 25 didn't say expired, he said that they

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1 M. DIAZ-DIAZ  
 2 MR. HSU: Answer the question.  
 3 A. When I was driving.  
 4 Q. Do you remember who told you that  
 5 you have to wear glasses while driving for the  
 6 first time?  
 7 MR. HSU: If anyone.  
 8 A. The authorities from the motor  
 9 vehicle.  
 10 MR. PLATTA: John, that's what I  
 11 was looking for.  
 12 MR. HSU: Obviously. Who do you  
 13 think told him, Jesus Christ? You just  
 14 asked him the same question. I'm trying  
 15 to give you leeway on your stupid  
 16 questions. You are asking him the same  
 17 questions five different ways about if  
 18 he has a restriction on his driver's  
 19 license, so DMV told him and then you  
 20 are asking who.  
 21 MR. PLATTA: You are using certain  
 22 words that you shouldn't.  
 23 MR. HSU: It's ridiculous.  
 24 MR. PLATTA: It's on the record  
 25 also.

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1 M. DIAZ-DIAZ  
 2 they punched it.  
 3 A. I never, it never expired. When I  
 4 got my Class A license my Class C license was  
 5 turned over.  
 6 MR. HSU: It was terminated.  
 7 Q. When was it terminated?  
 8 A. They changed it, I don't recall  
 9 right now.  
 10 Q. Do you remember who told you that  
 11 you had to wear glasses, if anyone, while  
 12 driving?  
 13 MR. HSU: Are you serious after we  
 14 went through every doctor that he saw?  
 15 MR. PLATTA: I'm asking him about  
 16 who told him.  
 17 MR. HSU: The eye doctor that said  
 18 he has to wear it to drive.  
 19 MR. PLATTA: You have to stop or  
 20 we'll bust the deposition, we can't do  
 21 it.  
 22 MR. HSU: Bust it. Who cares, I  
 23 can come back for another two days.  
 24 MR. PLATTA: He can't leave while a  
 25 question is pending.

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1 M. DIAZ-DIAZ  
 2 MR. HSU: I'm glad it's on the  
 3 record, if anybody could actually read  
 4 this, it's unbelievable.  
 5 MR. PLATTA: Can you tell, read  
 6 back the last question.  
 7 [Whereupon, the requested portion  
 8 of the record was read back by the Court  
 9 Reporter.]  
 10 MR. HSU: Besides when he got his  
 11 eye examined?  
 12 MR. PLATTA: Yes.  
 13 MR. HSU: When you got your eyes  
 14 examined, did they tell you that you had  
 15 to wear glasses?  
 16 MR. PLATTA: Counselor, I have a  
 17 different question, please let me go  
 18 forward unless he doesn't understand my  
 19 question.  
 20 A. It was when I made the transition  
 21 from C to A when I took the road test.  
 22 Q. Do you remember the year?  
 23 MR. HSU: He testified that he  
 24 didn't recall it. Don't answer that  
 25 again.

11 (Pages 148 to 151)

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1 M. DIAZ-DIAZ

2 MR. PLATTA: Note your objection.  
3 I don't think it's in the record.4 MR. HSU: You don't think that you  
5 didn't ask when he changed it from the C  
6 to A. Do you know when you changed your  
7 license from C to A?8 THE WITNESS: I don't recall  
9 exactly.

10 Q. More or less, can you estimate?

11 MR. HSU: If you are able, don't  
12 guess.13 MR. PLATTA: All questions are what  
14 you can.15 A. I can't, I can't, I don't have the  
16 exact date.

17 Q. Was it before 2000?

18 A. No.

19 Q. Was it before 2005?

20 A. Yes, it was before 2005, yes.

21 Q. At the time when you were told to  
22 wear glasses while driving, did you actually  
23 have any prescriptions filled out for your  
24 glasses?

25 MR. HSU: Are you now asking him

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1 M. DIAZ-DIAZ

2 [Whereupon, the requested portion  
3 of the record was read back by the Court  
4 Reporter.]

5 A. When I took the road test.

6 Q. At the time that DMV told you that  
7 you had to wear glasses while driving, did you  
8 have a prescription for glasses already?

9 A. I already had my glasses.

10 Q. Okay. Do you remember at the time  
11 when the DMV told you to wear glasses, did they  
12 somehow measure your eye vision or anything  
13 about your eyes?14 MR. HSU: He said that he had a DMV  
15 driver's license.16 MR. PLATTA: I'm asking him whether  
17 he had to wear his glasses in 1999,  
18 that's not the same time.

19 MR. HSU: Are you kidding?

20 MR. PLATTA: No.

21 Q. He testified that he had an eye  
22 examine for DMV at the beginning of the year?23 MR. HSU: And he continues to wear  
24 eyeglasses and you asked him, does he  
25 continue to get an eye examinations.

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1 M. DIAZ-DIAZ

2 about his prescription that he testified  
3 to?4 MR. PLATTA: I'm asking if he had a  
5 prescription for glasses at the time and  
6 he was told by DMV that he had to wear  
7 glasses?8 MR. HSU: He said it was before  
9 2005, correct?

10 MR. PLATTA: Correct.

11 MR. HSU: And then we known his eye  
12 history before 2005. What am I missing?

13 MR. PLATTA: I'm missing an answer.

14 MR. HSU: What hadn't been asked if  
15 you actually know if you hadn't already  
16 asked it.17 MR. PLATTA: John, if you have an  
18 objection.

19 MR. HSU: It's asked and answered.

20 MR. PLATTA: Take your time.

21 MR. HSU: Do you want to read his  
22 20 pages about prescriptions? If you  
23 want to read his testimony, go ahead.  
24 Read back the last question. You are on  
25 a short leash.

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1 M. DIAZ-DIAZ

2 This is like, I don't know, ask him the  
3 question.

4 MR. PLATTA: Repeat the question.

5 [Whereupon, the requested portion  
6 of the record was read back by the Court  
7 Reporter.]8 A. As I said before, when you go to  
9 Department of Motor Vehicles, they ask you to  
10 look into this apparatus. At that time they  
11 did not tell me that I needed eyeglasses, I  
12 went to get eyeglasses on my own accord from  
13 the eye doctor.14 Q. At the time that you went to DMV,  
15 did they check your eyes?16 A. They didn't tell me because the  
17 time that I went, my eyesight was good.

18 MR. PLATTA: Off the record.

19 [Discussion held off the record.]

20 MR. HSU: Read this please first.  
21 Off the record.

22 [Discussion held off the record.]

23 Q. Sir, when you testified before that  
24 the DMV told you that you had to wear glasses  
25 when you were driving, can you tell me at that

12 (Pages 152 to 155)

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1 M. DIAZ-DIAZ  
 2 moment, did they test your vision or how did  
 3 they base their opinion, if you know?  
 4 A. At the time I don't recall very  
 5 well. However, when I went to take the road  
 6 test that restriction was already in my  
 7 document and when they asked me to produce  
 8 those documents, I didn't have them and I had  
 9 to go back and get them.  
 10 Q. What documents?  
 11 A. It's the application for getting  
 12 the driver's license.  
 13 Q. Do you have a copy of this  
 14 application somewhere at home?  
 15 A. I doubt it, I believe not.  
 16 Q. Was it for a Class C, D or A  
 17 driver's license?  
 18 A. That was for the road test of Class  
 19 A license.  
 20 \* Q. Between 1999 when you first got  
 21 your driver's license and 2007, did DMV check  
 22 your eye vision at all?  
 23 MR. HSU: He testified that he had  
 24 an eye examine when he got his driver's  
 25 license.

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1 M. DIAZ-DIAZ  
 2 MR. HSU: Objection. Do you know  
 3 what the reason was for this  
 4 restriction?  
 5 A. That's part of the procedure when  
 6 you are going to get your driver's license when  
 7 you go to take your examine before they put  
 8 that little camera to see if you are doing  
 9 well, and that's where they deduce whether you  
 10 need eyeglasses or not.  
 11 Q. Is this what happened in your case  
 12 where they put the restriction on your driver's  
 13 license?  
 14 MR. HSU: Objection to form.  
 15 A. In my first examination in 1999 it  
 16 happened, but they didn't give me any  
 17 restrictions.  
 18 Q. And then subsequently it changed?  
 19 MR. HSU: Subsequently what?  
 20 MR. PLATTA: He had another examine  
 21 for a change of driver's license.  
 22 MR. HSU: He never testified he had  
 23 another examine. He testified to change  
 24 the license.  
 25 Q. At the time that you changed his

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1 M. DIAZ-DIAZ  
 2 MR. PLATTA: I accept that.  
 3 MR. HSU: This is asked and  
 4 answered. Don't answer that question.  
 5 Next. Mark it for a ruling, it's asked  
 6 and answered.  
 7 MR. PLATTA: Off the record.  
 8 [Discussion held off the record.]  
 9 MR. PLATTA: Back on the record.  
 10 Q. Sir, do you know what was the basis  
 11 for DMV to give you a restriction on your  
 12 driver's license?  
 13 A. That is part of the procedure when  
 14 you go to fill out the forms for a driver's  
 15 license.  
 16 MR. HSU: Read back the last  
 17 question and answer.  
 18 [Whereupon, the requested portion  
 19 of the record was read back by the Court  
 20 Reporter.]  
 21 Q. Sir, you testified before that you  
 22 didn't have any restrictions on your driver's  
 23 license in 1999 when you first obtained it and  
 24 then you got this restriction sometime  
 25 afterwards?

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1 M. DIAZ-DIAZ  
 2 license, did the condition change?  
 3 A. When I changed my driver's license  
 4 to Class A yes, it changed.  
 5 Q. Was it the first time?  
 6 A. Yes.  
 7 Q. As a result of that at the time at  
 8 DMV when you changed your driver's license to  
 9 Class A, did you have to go to see any doctor  
 10 for any new prescription for your glasses?  
 11 A. Yes, I went to a doctor for him to  
 12 prescribe eyeglasses to me, but the Motor  
 13 Vehicles did not send me. As I told you, I  
 14 went by my own accord.  
 15 Q. You went on your own accord before  
 16 the DMV test or before?  
 17 MR. HSU: He never said that he had  
 18 a test.  
 19 MR. PLATTA: He said that he had a  
 20 test during the course of his driver's  
 21 license.  
 22 MR. HSU: When you renewed your  
 23 driver's license, did you have a test  
 24 for DMV?  
 25 A. With the Department of Motor

13 (Pages 156 to 159)

Page 160

1 M. DIAZ-DIAZ  
 2 Vehicle it was with the question of reading the  
 3 maps.  
 4 Q. What about the moment that you said  
 5 that you used the machine to check your eyes?  
 6 MR. HSU: He said that was in 1999  
 7 and they said that he didn't need  
 8 glasses.  
 9 MR. PLATTA: Off the record.  
 10 [Discussion held off the record.]  
 11 Q. Sir, when you changed your driver's  
 12 license from Class A, was it the first time  
 13 when your eye test with DMV came back positive  
 14 basically showing you that had you to wear  
 15 glasses?  
 16 MR. HSU: Objection to form. He  
 17 never testified to that.  
 18 Q. Did you have an eye exam when you  
 19 changed your license to Class A?  
 20 A. No.  
 21 MR. HSU: No, for the fourth time  
 22 in a row.  
 23 Q. So is it fair to say that the only  
 24 time that you had this eye test was the only  
 25 time at the very beginning when you had your

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1 M. DIAZ-DIAZ  
 2 doctor told me that I have to have examination  
 3 for glaucoma and I didn't go back to her, I  
 4 went to another doctor and spent \$400 in order  
 5 for them to tell me that I didn't have  
 6 glaucoma.  
 7 MR. HSU: If you read the  
 8 transcript you would know that.  
 9 Q. Have you ever had any surgery done  
 10 to your eyes?  
 11 A. No, sir.  
 12 Q. Have you ever been disciplined at  
 13 your work at All American Haulers and  
 14 Recycling?  
 15 A. Are you asking me if they called  
 16 something to my attention, if they told me  
 17 something?  
 18 Q. Yes.  
 19 A. No.  
 20 Q. Did you ever receive a reprimand  
 21 for doing something wrong as a driver, any  
 22 complaints?  
 23 MR. HSU: Objection to the form.  
 24 A. No.  
 25 Q. Did you wear glasses at the time of

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1 M. DIAZ-DIAZ  
 2 first driver's license from DMV?  
 3 A. It was my license for the first  
 4 time that I did the examine the first time,  
 5 yes.  
 6 Q. Was it the only time?  
 7 A. Afterwards they saw my eyeglasses  
 8 on me and that's when they gave me the  
 9 restriction.  
 10 Q. Fine.  
 11 MR. PLATTA: Off the record.  
 12 [Discussion held off the record.]  
 13 MR. PLATTA: Back on the record.  
 14 Q. Sir, when was the first time that  
 15 you were diagnosed with a glaucoma condition?  
 16 A. I told you and it's there. I don't  
 17 recall right now, but I don't recall but I told  
 18 you and it's in there.  
 19 Q. Fine. Do you remember at the time  
 20 when DMV told you that you have to wear  
 21 glasses, did you have this condition, did have  
 22 you glaucoma?  
 23 MR. HSU: Object to the form.  
 24 A. I have never had glaucoma. I went  
 25 to a doctor and when she told me and the first

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1 M. DIAZ-DIAZ  
 2 the accident?  
 3 MR. HSU: This was already asked  
 4 and answered, you asked it.  
 5 MR. PLATTA: Believe me, I'm not  
 6 trying to be. Off the record.  
 7 [Discussion held off the record.]  
 8 MR. PLATTA: Back on the record.  
 9 Read back the last question.  
 10 [Whereupon, the requested portion  
 11 of the record was read back by the Court  
 12 Reporter.]  
 13 A. Yes, surely.  
 14 Q. Was it the same glasses as have you  
 15 today or not?  
 16 A. They are not the same glasses, no.  
 17 Q. As an employee of all American  
 18 Haulers Recycling, did you receive a speeding  
 19 ticket?  
 20 MR. HSU: Objection.  
 21 A. No.  
 22 Q. Were you issued any tickets for  
 23 moving violations while working for All  
 24 American Haulers?  
 25 MR. HSU: Note my objection,

14 (Pages 160 to 163)

<p>1 M. DIAZ-DIAZ 2 please. 3 A. No. 4 Q. Sir, I'm going to move to the 5 moment of the accident, and I'll only ask you 6 what you saw in a certain period of time. 7 MR. HSU: That's already all done. 8 It doesn't matter if it's not the same 9 question. It's the same questions asked 10 and answered. Why are you going back? 11 Off the record. 12 [Discussion held off the record.] 13 MR. HSU: Back on the record. 14 * Q. Sir, within 10 seconds before the 15 accident, where did you look? 16 MR. HSU: Objection, answered. 17 Next question. 18 MR. PLATTA: Mark it for a ruling. 19 * Q. Sir, five seconds before the 20 accident, where did you look? 21 MR. HSU: Asked and answered. Next 22 question. 23 MR. PLATTA: Mark it for a ruling. 24 John, you are buying yourself a motion 25 and it's not because of me.</p>	<p>Page 164</p> <p>1 M. DIAZ-DIAZ 2 A. The same car. 3 Q. Anything else besides this car? 4 A. I was trying to avoid it in order 5 not to hit it. 6 Q. What were you doing to try to avoid 7 it? 8 MR. HSU: Note my objection. 9 Answered. Hurry up, answer. 10 A. I braked. 11 Q. Anything else? 12 A. To brake with everything that I 13 could. 14 Q. Anything else? 15 A. I don't recall anything else, I 16 only braked I don't recall now. 17 Q. Was your truck at the time of the 18 accident, equipped with a chromometer or 19 something that measures the time in your car? 20 A. That I recall, I don't know if 21 there are any trucks that have a chromometer 22 but if they have a computer it tells us when 23 the truck was turned on. 24 MR. HSU: Do you have one, just 25 answer. Your truck, do you know if you</p>
<p>1 M. DIAZ-DIAZ 2 MR. HSU: You know, Slawek. Off the 3 record. 4 [Discussion held off the record.] 5 MR. HSU: Back on the record. 6 Q. Sir, what did you see in front of 7 you 20 seconds before the accident? 8 A. 20 seconds before? 9 Q. Yes. 10 MR. HSU: Don't answer that 11 question, answered. 12 Q. What did you see in front of you 10 13 seconds before the accident, what did you see 14 in front you 10 seconds before the accident? 15 A. The vehicle. 16 MR. PLATTA: Mark for a ruling the 17 other questions that were objected to. 18 Q. What kind of vehicle, the one that 19 had you the accident with? 20 A. A Toyota, Four by Four. 21 Q. At that time did you see anything 22 else? 23 A. No, only that. 24 Q. Five seconds before that, what did 25 you see in front of your truck?</p>	<p>Page 165</p> <p>1 M. DIAZ-DIAZ 2 had one? 3 THE WITNESS: My truck does not 4 have a chromometer. 5 Q. Did you have any kind equipment 6 that measured the time or distance that you 7 traveled? 8 A. I believe not, but I don't know. 9 Q. Do you know who would know? 10 A. I don't know who would know. I 11 don't know. 12 Q. Do you know where the maintenance 13 records for this truck that was involved in the 14 accident, where are they maintained? 15 A. I told you the last time that I 16 didn't know. 17 Q. And I think my last question sir, 18 do you remember filling out a similar report, 19 like a police report it's called an MV-104? 20 MR. HSU: You asked about this. 21 This is where if he filled out an 22 incident report. 23 Q. Did you fill out a form that is 24 called an MV-104 it looks like a police report? 25 A. No, I didn't fill anything out like</p>

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Page 170

1 M. DIAZ-DIAZ

2 that.

3 Q. Sir, when you testified before  
 4 about the doctor that you saw for glaucoma, did  
 5 you see anyone else after you saw this doctor  
 6 besides what you already testified in 2007, did  
 7 you see any other doctors in between?

8 MR. HSU: For what, glaucoma?

9 MR. PLATTA: Any eye condition.

10 MR. HSU: Did you ever see a doctor  
 11 for anything other than an eye  
 12 condition?

13 THE WITNESS: No for another  
 14 condition, no.

15 (Continued on the next page.)

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1  
 2 ERRATA SHEET  
 3 CASE NAME: ADONNA FROMETA against MARIO E.  
 4 DIAZ-DIAZ ALL AMERICAN HAULERS RECYCLING  
 4 DATE OF DEPOSITION: January 11, 2008  
 WITNESS' NAME: MARIO DIAZ-DIAZ

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 6 PAGE/LINE(S)/ CHANGE REASON  
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21 MARIO DIAZ-DIAZ  
 22 SUBSCRIBED AND SWEARN TO  
 BEFORE ME THIS \_\_\_\_ DAY  
 23 OF \_\_\_\_\_, 2008.  
 24  
 25 NOTARY PUBLIC

Page 169

Page 171

1 M. DIAZ-DIAZ

2  
 3 MR. PLATTA: I reserve my right for  
 4 a further deposition of this witness. I  
 5 deem this deposition incomplete due to  
 6 the improper objections during this  
 7 deposition.

8 (Whereupon, at 7:30 P.M., the  
 9 Examination of this Witness was  
 10 concluded.)

11  
 12 MARIO DIAZ-DIAZ  
 13  
 14 Subscribed and sworn to before me  
 15 this \_\_\_\_ day of \_\_\_\_\_, 2007.  
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NOTARY PUBLIC

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 4 INFORMATION AND/OR DOCUMENTS REQUESTED  
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10 QUESTIONS MARKED FOR RULINGS

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16 (Pages 168 to 171)

1                   CERTIFICATE  
2  
34                   STATE OF NEW YORK      )  
5                   : SS.:  
6                   COUNTY OF QUEENS      )  
78                   I, LORRAINE DeSALVIO, a Notary Public  
9                   for and within the State of New York, do hereby  
10                  certify:11                  That the witness whose examination is  
12                  hereinbefore set forth was duly sworn and that  
13                  such examination is a true record of the  
14                  testimony given by that witness.15                  I further certify that I am not related  
16                  to any of the parties to this action by blood  
17                  or by marriage and that I am in no way  
18                  interested in the outcome of this matter.19                  IN WITNESS WHEREOF, I have hereunto set  
20                  my hand this 20th day of January, 2008.21  
22                  23                  LORRAINE DeSALVIO  
24  
25